

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LIFE INSURANCE COMPANY OF
NORTH AMERICA and CONNECTICUT
GENERAL LIFE INSURANCE COMPANY,

Plaintiffs,

v.

MICHELLE C. KINCAID,
CHRISTOPHER N. KINCAID,
RUTH M. KINCAID and
HUBERT N. KINCAID,

Defendants.

ORDER

12-cv-238-bbc

This interpleader lawsuit involves the proceeds of certain group life insurance policies issued by plaintiffs Life Insurance Company of North America and Connecticut General Life Insurance Company to insure the life of Christopher Kincaid, now deceased. The interpleader insurance companies filed suit against defendants Michelle Kincaid, Christopher N. Kincaid, Ruth Kincaid and Hubert Kincaid, contending that there was a dispute between defendants regarding the proceeds of the policies. Cpt. ¶ 2, dkt. #1. In an ordered entered October 23, 2012, I granted the insurance companies' request to deposit the proceeds of the policies with the clerk of court and entered an order discharging the insurance companies from all liability for benefits under the policies. Dkt. #23.

Now before the court is a joint proposed consent judgment filed by defendants Christopher N. Kincaid and Michelle Kincaid in which they specify how the life insurance

proceeds shall be divided between themselves and non-party Jeffrey Kincaid. Dkt. #39. These defendants request the court to enter the consent judgment, release the proceeds for distribution and close this case. I am prepared to enter the consent judgment, but first, the parties must clarify the status of defendants Ruth and Hubert Kincaid. The proposed consent judgment says nothing about these two named defendants, and I cannot simply enter the proposed consent judgment and close the case without addressing their presence in the lawsuit.

Although Ruth and Hubert are named as defendants in this action and were served with copies of the complaint, neither has made an appearance, filed an answer or participated in any way in the proceedings. At the preliminary pretrial conference before Magistrate Judge Crocker, counsel for the insurance companies and defendants Michelle and Christopher Kincaid stated that Ruth and Hubert had disavowed any interest in the lawsuit. Preliminary Pretrial Conf. Order, dkt. #12 at 1. This statement is supported by Ruth and Hubert's failure to file an answer or otherwise participate in this lawsuit. Nonetheless, any judgment entered must generally account for all defendants that have been named. Therefore, the parties must either revise the proposed consent judgment to include these two defendants, or explain to the court why it is not necessary to include these two defendants. The parties may have until December 14, 2012 to do so.

Entered this 5th day of December, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge